

REMARKS

Claims 69-87 are pending and being examined to the extent that the claims read upon the elected species 5-FU and polyethylene glycol.

Section 103 Rejections

The Examiner rejected pending claims 69, 77 and 78 under Section 103(a) as being unpatentable over Wiley. Applicant respectfully traverses the rejection.

The Wiley reference does not teach the use of TRAIL polypeptides in the treatment of blastoma. In the Office Action at page 3, line 16, the Examiner states "Wiley is silent with respect to the treatment of blastoma".

Despite that the Wiley reference does not even mention the term "blastoma", the Examiner asserts that it would have been obvious for one skilled in the art to use TRAIL polypeptides to treat blastoma with a reasonable expectation of success. Applicant respectfully disagrees. The Wiley reference's disclosure of only three specific types of cancer - leukemia, lymphoma, and melanoma - would not motivate one skilled in the art of cancer therapy to employ TRAIL polypeptides in the treatment of blastoma or to reasonably believe that any results observed for the effect of TRAIL polypeptides on leukemia, lymphoma, or melanoma cells would similarly apply to blastoma cells. It is respectfully submitted that while the Wiley reference, at best, may provide an "obvious to try" type of teaching, there would be no reasonable expectation of success given the state of the art of cancer therapy.

Claims 69 and 70-73 were rejected under Section 103(a) as being unpatentable over Wiley in view of Gmeiner. The Examiner asserts in the Office Action that Gmeiner discloses that 5-FU exerts a cytotoxic effect on cancer cells, but Gmeiner does not teach TRAIL. Applicant respectfully traverses the rejection on at least the grounds that Wiley does not teach the use of TRAIL polypeptides in treating blastoma (discussed above), and so the combination of the teachings of Wiley and Gmeiner do not obviate the subject matter of claims 69 and 70-73.

Claims 69 and 75 were rejected under Section 103(a) as being unpatentable over Wiley in view of Davis. The Examiner asserts that it would have been obvious to treat cancer with TRAIL and to modify TRAIL by linking TRAIL polypeptides to PEG with a reasonable expectation of success. Applicant respectfully traverses the rejection on at least the grounds that Wiley does not teach the use of TRAIL polypeptides in treating blastoma (discussed above), and so the combination of the teachings of Wiley and Davis do not obviate the subject matter of claims 69 and 75.

Withdrawal of the Section 103(a) rejections is respectfully requested.

Respectfully submitted,
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